

**Response to Comments
For the
Draft Beneficial Use Amendment and Staff Report
Proposing to Update the
North Coast Regional Water Quality Control Plan
(Basin Plan)**

May 7, 2003

Prepared by Staff of the
North Coast Regional Water Quality Control Board
Watershed Management Division
Planning Unit

1. COMMENT: [Brenda Adelman, Russian River Watershed Protection Council]
Request for clarification of Statement on page 2- 7.00: "Coyote Dam is non-operational."
This project is operational; the hydropower plant is required to operate in order to keep a FERC permit.

RESPONSE: We concur. Staff has made the corresponding correction.

2. COMMENT: [Brenda Adelman]
Page 2- 8.00; paragraph one under Designation of RARE Beneficial Use. Request to clarify double negative in sentence. "...only that no occurrence data was not entered in CNDDDB as of January 2001."

RESPONSE: Staff has clarified the meaning of this statement by adding quotation marks around "no occurrence data," which is a term used by the CDFG. "No Occurrence" indicates that the species was not observed.

3. COMMENT: [Brenda Adelman]
On Page 2- 6.00, under the discussion of recreation, suggests adding mention of photography, painting, and the arts in general, as those uses are common in the Russian and other North Coast watersheds.

RESPONSE: Staff agrees with and appreciates the suggestion and has added language to the amendment under the recreation discussion.

4. COMMENT: [Brenda Adelman]
The Laguna de Santa Rosa labeled as a Flood Control Channel on many maps. There is no mention in the Staff Report of flood control channel management (vegetation removal, etc.) versus wetland and beneficial use protection.

RESPONSE: Staff handles applications for modification to flood control channels in the same way we have handled applications for activities in other surface waters. Applicants have to show the activity is necessary and have to provide mitigation for any loss of beneficial uses. We do not feel that we need any special language in the Beneficial Use Chapter of the Basin Plan for these activities. It may be appropriate to add a discussion of this type when updating the Implementation Plan Section (Chapter 4) in the future.

5. COMMENT: [Brenda Adelman]
Commenter is opposed to the addition of the WARM designation for the Laguna de Santa Rosa. The following requests for clarification were submitted:
 - A. It is not clear how we will manage conflicting beneficial uses based on the comment on page 2-6.00, paragraph 2, "to protect the most sensitive species."
 - B. How do we manage for COLD and WARM in the same waterbody (i.e. the Laguna de Santa Rosa), especially when dealing with native and non-native species?

RESPONSE: Staff relied on the best professional judgment of California Department of Fish and Game staff, Regional Board staff, as well as others who have field knowledge of local stream conditions in order to update the fisheries related beneficial use designations in the proposed amendment. We have evidence that both cold and warm freshwater species occur now, as well as historically, within the Laguna de Santa Rosa (Laguna). We are therefore, obliged to designate both COLD and WARM beneficial uses for the Laguna.

There are many waterbodies in the North Coast Region, which support *both* cold and warm freshwater ecosystems. One reason for this is because a waterbody segment may provide cold freshwater habitat at one time and warm freshwater habitat at another time. For instance, in the winter a waterbody may provide cold freshwater habitat and in the late summer, this same waterbody may provide warm freshwater habitat. Likewise, a waterbody may contain segments in the warm water range and other segments in the cold water range. In the Laguna watershed, the mainstem Laguna is warm in the summer, while some tributary feeder streams provide cold water habitat. The fact that both cold water and warm water species are found in the Laguna system is testimony to these examples.

The flexibility of many warm water species allows them to tolerate higher water temperatures than cold water species, while still able to sustain populations in a cold water environment.

Regarding the issue of native versus non-native species, water quality laws and regulations require us to protect all species.

Designation of both COLD and WARM beneficial uses will not result in changes to water quality objectives that are required to protect the COLD beneficial use. Ultimately, adding the WARM designation to a waterbody with COLD designation adds another level of protection.

6. COMMENT: [Brenda Adelman]

- A. Does the addition of the WARM designation affect the current Dissolved Oxygen (DO) and Temperature objectives for the Laguna?
- B. How is “natural receiving water temperature” defined, as stated under temperature water quality objectives (Basin Plan Chapter 3)?

RESPONSE: The addition of the WARM designation does not have an effect on the water quality objectives for the Laguna (or any other waterbody). This amendment only serves to update the Beneficial Use Section (Chapter 2) of the Basin Plan, to accurately reflect the uses of waters within the region. The water quality objectives for temperature and DO for the Russian River are currently being reviewed with a separate Basin Plan Amendment project.

The term “natural receiving water temperatures” (as defined in Appendix 3 to the Basin Plan) is applied through permits (i.e. NPDES, WDRs) by conducting monitoring at locations upstream and downstream of the discharge in question. However, staff recognizes that methods for determining “natural” or “background” conditions are varied and evolving. Staff is currently reviewing the latest methods used in determining “natural” temperature conditions for use in TMDLs and TMDL Implementation Plans, which can be accomplished via several methods including using reference temperatures from related undisturbed watersheds, modeling, computer simulation applications, and combinations thereof.

7. COMMENT: [Brenda Adelman]

Why wasn't the Spawning, Reproduction, and/or Early Development (SPWN) beneficial use designated for the Laguna HSA? If this HSA includes Mark West and Santa Rosa Creeks (tributaries to the Laguna) it should receive this designation.

RESPONSE: The Laguna HSA does not include includes Mark West Creek and only includes a very small portion of Santa Rosa Creek at its confluence with the Laguna.

However, this HSA does include Blucher and Copeland Creeks, which contain spawning habitat. Therefore, staff has added the SPAWN use to the Laguna HSA.

8. COMMENT: [Brenda Adelman]

In general, if a waterbody has a designation, does the designation apply to all of its tributaries as well?

RESPONSE: Yes. In most cases the proposed amendment designates uses to Hydrologic Areas (HAs) or Subareas (HSAs), which have specific boundaries. In these cases, the designated uses apply to all waters within the boundaries of the defined area, including all tributaries ("Tributary Rule," see page 2-1.00 of the Beneficial Uses Amendment). In a few cases, the beneficial uses are designated to a specific waterbody. In these cases, the beneficial uses are designated specifically to the waterbody and include all of its tributaries, unless stated otherwise. Through this proposed amendment, staff aims to refine and make more precise some of those designations by breaking down some of the Hydrologic Units (HUs) and Hydrologic Areas (HAs) for beneficial use designations on a smaller, more precise scale, where available information permits that level of detail.

9. COMMENT: [Brenda Adelman]

Why was there no listing for the Laguna for the wetland beneficial uses Flood Peak Attenuation (FLD) and Wetland Habitat (WET)?

RESPONSE: Currently, staff makes wetland beneficial use determinations on a case-by-case basis. With existing data, staff would only be able to officially designate a few waterbodies as having existing wetland beneficial uses. Rather than designate a few, and leave out many, staff is recommending continuing to make the determination on a case-by-case basis, based on available information. Therefore, in the Beneficial Use Table, 2-1, we apply these uses to the general wetland categories (saline and freshwater) at this time. In the future, we plan to have all of the wetlands within the region delineated and existing and potential uses determined, so that we may apply specific wetland uses to well-defined areas.

10. COMMENT: [Don McEnhill, Russian RiverKeeper]

Supports the proposed amendment (Alternative #3) and is pleased to see the beneficial uses designated to hydrologic subareas, with the exception of the following comments (#11-13).

11. COMMENT: [Don McEnhill]

The wetland beneficial uses (WET, WQE, and FLD) should be applied to Russian River areas that were historically wetland areas and still perform these functions.

RESPONSE: Staff agrees that there are instances where the wetland beneficial uses apply to surface waters, including the possibility of a "potential" designation where the use was historically present and/or can be reasonably achieved in the future. However, this is something that will be accomplished with future Basin Plan updates. Please see the explanation provided in the response to Comment # 9.

12. COMMENT: [Don McEnhill]

States disagreement with applying the WARM beneficial use to the Laguna. Warm species can survive in Cold waters, but not vice-versa.

RESPONSE: Please see the response to Comment # 5 above.

13. COMMENT: [Don McEnhill]

The middle reaches of the Russian River, and specifically Geyserville HSA, were historically areas where the Pomo Indians collected basket-weaving material. The Cultural (CUL) beneficial use should be designated for these areas.

RESPONSE: Staff is interested in this type of information. However, we require more specific documentation to be submitted for the administrative record to support the designation before we can make this addition.

14. COMMENT: [Ursula Jones, Private Citizen]

Estuarine Habitat (EST) should be designated for the Gualala HSA (113.85) not the North Fork in the Beneficial Uses Table (2-1).

RESPONSE:

We concur. This was an error that has been corrected.

15. COMMENT: [Ursula Jones]

Gualala HSA should be listed for BSA (formerly BIOL) as it is one of few estuaries not naturally breached during most of the year.

RESPONSE: The BSA designation is only for those areas that have been identified as “biologically significant” by those agencies charged the responsibility of designating these locations, such as the California Department of Parks and Recreation (as described on pages 9 –11 of the staff Report. We suggest that the commenter approach one of these agencies with this proposal. Once an area has been identified as “biologically significant,” the Regional Water Board can designate the use to a waterbody during a triennial review.

16. COMMENT: [Chris Poehlman, Private Citizen]

Requested clarification of the WQE definition. Believes that it should possibly include “areas upstream” as well.

RESPONSE: Please see response to Comment #11.

17. COMMENT: [Alan Levine, Coast Action Group]

The BIOL (now BSA) beneficial use should be designated to the Gualala and Big Rivers (as well as possibly Garcia in the future) as their estuaries are within State Parks.

RESPONSE: We concur. Staff has added the BSA designation to waterbodies that fall within State Parks and Reserves boundaries as this meets the revised definition.

18. COMMENT: [Alan Levine]

Any drainage that contributes to an estuary should be designated with the Estuarine Habitat (EST) beneficial use.

RESPONSE: Staff disagrees. The definition of Estuarine Habitat (EST) indicates that this use applies only to areas that provide estuarine habitat.

19. COMMENT: [Alan Levine]

Why is the aquaculture (AQUA) beneficial use designated as potential on the Garcia and Gualala Rivers? *The Gualala Steelhead Project is only in one location, but commenter understands that they plant steelhead throughout much of the watershed.*

RESPONSE: Areas that are designated with Potential Aquaculture (AQUA) include locations where there could potentially be projects in the future or have been in the past.

20. COMMENT: [Kathleen Morgan, Private Citizen]

Requested clarification of the SAL (Inland Saline Water Habitat) definition. Wondered if parts of the Gualala River should be designated with this use.

RESPONSE: The definition of the SAL beneficial use follows: *Uses of waters that support inland saline water ecosystems including, but not limited to, preservation or enhancement of aquatic saline habitats, vegetation, fish, or wildlife, including invertebrates.*

As outlined by the definition above, SAL only applies to inland areas. The North Coast Region does not have any areas that qualify for this designation.

21. COMMENT: [The Hoopa Valley Tribe, Karuk Tribe, Yurok Tribe, The Smith River Rancheria, The Wiyott Tribe -Table Bluff Reservation]

Support the addition of the proposed Native American Cultural Use (CUL) was submitted by the tribes listed above. In addition, supporting documentation for adding the CUL use to various waterbodies was also supplied by these tribes.

RESPONSE: We appreciate the interest in this Basin Plan update. We are proposing the addition of the CUL designation to several Hydrologic Areas and Subareas based on the information submitted.

22. COMMENT: [California Farm Bureau]

The proposed amendment requires an attainability analysis for the proposed beneficial uses, in order “to provide insight into how water quality objectives will be established to protect these uses and whether such protection is economically feasible.”

RESPONSE: Staff disagrees. As stated in 40 CR 131.10 (k): A State is not required to conduct a Use Attainability Analysis (UAA) under this regulation whenever designating uses that include those specified in section 101 (a) (2) of the Clean Water Act (CWA). Under this section of the CWA, States are required to “provide, wherever attainable, water quality for the protection and propagation of fish, shellfish, and wildlife and recreation in and on water.” The four proposed beneficial uses; Wetland Habitat (WET), Flood Peak Attenuation (FLD), Water Quality Enhancement (WQE), and Native American Cultural (CUL) meet the criteria established under these regulations.

The focus of the Basin Plan Amendment is updating the beneficial use designations in the Basin Plan. The Beneficial Use Chapter Update was identified as the highest priority by the Regional Water Board during the 2001 – 2004 Triennial Review of the Basin Plan.

The existing and potential beneficial uses for specific waterbodies are first identified using factual information and then designated in the Basin Plan under the amendment process. Following the designation of the beneficial uses, analyses are conducted to determine if existing water quality objectives are sufficient to protect the uses. In reviewing water quality objectives for potential beneficial uses, a Use Attainability Analysis may be conducted to

assess if the water quality requirements of the use can be met using feasible technological and economical means.

In short, first we are required to determine the existing and potential uses: this is done through the beneficial use designation process. After that, we can determine if those uses are reasonably attainable: this is done through the water quality objectives update process.

23. COMMENT: [California Farm Bureau]

The Agricultural Water Supply (AGR) use has been left off of list of beneficial uses under the heading "Rivers and Streams."

RESPONSE: Staff concurs that this use should be mentioned and has added AGR to the list of common beneficial uses under the heading "Rivers and Streams."

24. COMMENT: [Trout Unlimited]

Support the designations of COLD, SPWN and RARE to all eleven HSAs within the Russian River HU. They request that the WARM designation not be added to the Laguna HSA, "as elevated water temperatures are stressful and lethal to the cold water species of salmonids (i.e. Coho and Steelhead)."

RESPONSE: Please see response to Comment #5.